



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 11 2018

Mr. Patrick Farrell
Chemical Hygiene Officer
The Catholic University of America
620 Michigan Avenue, NW
Washington, DC 20064

Re: Notice of Noncompliance
Docket Number TSCA-03-2018-0057

Dear Mr. Farrell:

The U.S. Environmental Protection Agency (EPA), Region III received a letter from Cycle Chem, Inc., dated May 21, 2018, asserting the discovery of a hazardous waste shipment containing polychlorinated biphenyls (PCBs). A copy of this letter is enclosed for your reference. According to that letter, 100 gallons of oil and water were shipped to Cycle Chem, Inc. in Lewisberry, PA from Catholic University of America on May 10, 2018. Bill of Lading/Manifest # 01848360606JJK, which was prepared by Catholic University of America and accompanied the shipment, did not disclose the presence of PCBs. It was not known that the shipment of waste contained TSCA regulated levels of PCBs until Quality Assurance Quality Control (QA/QC) sampling and analysis was conducted by the receiving facility. The oil and water waste was found to contain 839.2 ppm PCBs. The shipment was rejected by Cycle Chem, Inc. because Cycle Chem, Inc.'s Lewisberry facility does not have EPA approval to dispose of PCBs. According to the un-manifested waste report received from Cycle Chem, Inc., the waste, as of the date of the report, was currently in storage awaiting reclassification for disposal at an alternate disposal facility.

Based on this information, EPA finds that Catholic University of America has violated the PCB Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, 40 C.F.R. Part 761 ("PCB regulations"), promulgated pursuant to Section 6(e) of the Toxics Substances Control Act (TSCA), 15 U.S.C. Section 2605(e). Specifically, Catholic University of America failed to prepare and provide a waste manifest to accompany a shipment of PCB waste, as required by 40 C.F.R. § 207. Further explanation of this violation is provided below.

Customer Service Hotline: 1-800-438-2474

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As set forth at 40 C.F.R. § 761.207, the PCB regulations state that:

(a) A [PCB waste] generator who relinquishes control over PCB waste by transporting, or offering for transport by his own vehicle or by a vehicle owned by another person, PCB waste for commercial off-site storage or off-site disposal shall prepare a manifest on EPA Form 8700-22, and if necessary, a continuation sheet. The generator shall specify:

(1)***

(2) For each PCB Article Container or PCB Container, the unique identifying number, type of PCB waste (e.g. soil....), earliest date of removal from service for disposal, and weight in kilograms of the PCB waste contained.

(3)***

(g) A generator shall designate on the manifest one off-site commercial storage or disposal facility approved under this part for the commercial storage or disposal of the PCBs and PCB Items described on the manifest.

Bill of Lading/Manifest #01848360606JJJ, which accompanied the materials containing the PCB waste shipped to Cycle Chem, Inc., does not specify the type of PCB waste contained in the shipment and does not designate an off-site commercial storage or disposal facility approved under 40 C.F.R. Part 761 for the disposal of the PCBs in the shipment identified on the manifest, as required by 40 C.F.R. §§ 761.207(a) and .207(g), respectively. Catholic University of America's failure to include the required information on the Hazardous Waste Manifest accompanying its shipment of PCB wastes violated 40 C.F.R. § 761.207 and Section 15 of TSCA, 15 U.S.C. § 2614, for which violation a civil penalty may be imposed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

In addition to the PCB waste manifest requirement described above, storage and disposal of PCB waste must also be performed in compliance with other applicable provisions of 40 C.F.R. Part 761. Among the provisions that typically apply to PCB waste storage and disposal activities are: 1) the requirement to mark PCB Items, storage units, and transport vehicles with the PCB label, referred to as "M_L" in the PCB regulations, in accordance with the marking requirements set forth at 40 C.F.R. § 761.40; 2) the requirement that certain generators of PCB waste notify EPA of their PCB waste activities in accordance with 40 C.F.R. § 761.205; 3) the requirements for storage and disposal of PCB waste set forth at 40 C.F.R. Part 761, Subpart D; and 4) the recordkeeping requirements set forth at 40 C.F.R. § 761.180. Any failure by Catholic University of America to comply with the above requirements would be a violation of Section 15 of TSCA, 15 U.S.C. § 2614, for which violation a civil penalty may be imposed pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

In response to this Notice of Noncompliance (Notice), please submit a copy of your standard operating procedures for the testing, storing, and disposal of waste generated at your

facility to prevent unauthorized disposal of PCBs in the future. In addition, describe the sources(s) and/or process(es) that generated the PCB waste identified in this Notice. Also, please submit a copy of the corrected manifest and the Certificate of Disposal for this waste shipment within thirty (30) days of receipt of this Notice to:

Scott Rice
Toxics Programs Branch (3LC41)
U.S. Environmental Protection Agency
1060 Chapline St.
Wheeling, WV 26003

Section 16 of TSCA authorizes the assessment of a civil penalty of up to \$25,000 per day for each violation of TSCA and the regulations promulgated thereunder. Pursuant to the Debt Collection Improvement Act of 1996 and the Adjustment of Civil Monetary Penalties for Inflation promulgated thereunder and published at 40 C.F.R. Part 19, the maximum penalty for each violation of TSCA has been increased to \$27,500 per day for each violation occurring after January 30, 1997 (see 61 Federal Register 69360 (December 31, 1996)(codified at 40 C.F.R. Part 19)), to \$32,500 for each violation occurring after March 15, 2004 (see 69 Federal Register 7121 (February 13, 2004)(codified at 40 C.F.R. Part 19)), and to \$37,500 for violations occurring after January 12, 2009 (see Federal register 75341 (December 11, 2008)(codified at 40 C.F.R. Part 19)). Based on the information currently available, EPA is issuing this Notice in lieu of an administrative complaint proposing a civil penalty. Within thirty (30) days of receipt of this Notice, your facility must correct the violation of the PCB regulations and submit to EPA the requested information and a written statement certifying that you have corrected this violation.

If you fail to correct the violation and submit the requested information and written certification within the designated time period, EPA may issue an administrative complaint for the assessment of civil penalties for the violation(s) described above. This Notice does not preclude future enforcement actions for the violations cited herein, or for any other violations of statutes and regulations that EPA administers. The PCB Penalty Policy can be viewed at:

<https://www.epa.gov/enforcement/polychlorinated-biphenyls-pcb-penalty-policy>.

Pursuant to the regulations appearing at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of the submitted information. Unless such a confidentiality claim is asserted at the time the required information is submitted, EPA may make this information available to the public without further notice to you. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above-cited regulations. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b).

If any portion of your response(s) to this action contains information which you claim as business confidential, you should submit that portion of the response in accordance with the

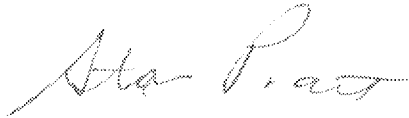
following procedures: 1) the material itself should be marked to indicate that it is claimed confidential; 2) it should be placed in an envelope addressed to the EPA representative identified at the end of this action; 3) the envelope should be marked "Confidential Business Information - To be Opened By Addressee Only"; 4) the envelope should then be placed in a second, "outer" envelope addressed to:

Mr. Scott Rice
Document Control Officer (3LC41)
U.S. Environmental Protection Agency
Region III
1060 Chapline Street
Wheeling, West Virginia 26003

The package containing the confidential business information portion of your response should then be mailed, by registered mail, to Scott Rice, the Document Control Officer.

If you have any questions please contact Scott Rice at (304) 231 - 0501.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stacie Pratt".

Stacie Pratt, Chief
Toxics Programs Branch

Enclosures

cc: Richard Jackson, DC DEE